



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/160923

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 24, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on December 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly approved the Personal Care Worker (PCW) hours requested by Petitioner's provider in a medical prior authorization request.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Robert Derendinger, RN, BSN  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is diagnosed with chronic pain, COPD, and hypertension. He lives in the community with family.

3. On July 8, 2014 Petitioner's provider, Community Home Healthcare, submitted a medical prior authorization request for 15.75 hours per week of Personal Care Worker (PCW) services and 24 hours per year of as needed PCW services. The Department approved this request.
4. Petitioner's PCW services are allocated as follows: 210 minutes per week for bathing, 140 minutes per week for dressing his upper and lower body, 210 minutes per week for grooming, 210 minutes per week for transfers, and 193 minutes per week for services incidental to activities of daily living.
5. Before this prior authorization request, Petitioner received 29.75 hours per week for PCW services. Community Home Healthcare completed a personal care screening tool with Petitioner. Based upon that Personal Care Screening tool Community Home Healthcare submitted the prior authorization request for 15.75 hours per week of PCW time, which the Department approved.
6. On September 23, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

### **DISCUSSION**

Personal care worker service (PCW), as defined at Wis. Admin. Code §DHS 107.112(1), is an MA-covered service, subject to prior authorization after the first 250 hours per calendar year. Wis. Admin. Code §DHS 107.112(2) (September 2014). In determining whether to approve such a service request, DHS employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be a medical necessity, appropriate, and an effective use of available services. *Id.*

The state code does restrict MA-covered PCW tasks as follows:

(b) Covered personal care services are:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;

12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(2)(b). It is important to note that for a person who is not living alone, no more than a quarter amount of the total PCW time can be spent for services incidental to daily living. §DHS 107.112(e). Services incidental to daily living include laundry, dishes, meal preparation, and food shopping. *Id.*

In this case DHS approved the prior authorization request as it was submitted by Petitioner's provider. Petitioner correctly argues that this is a reduction in his PCW hours as he was receiving 29.75 hours per week of PCW time, and only 15.75 hours per week of PCW time was requested in the prior authorization request. This is Petitioner's appeal, and the burden is on Petitioner to show that the Department, and in this case, his provider, are incorrect in their determination that 15.75 hours per week of PCW time will meet Petitioner's needs.

Petitioner does not meet his burden in this case. Although Petitioner is correct that the department had previously approved additional PCW time, the Department implicitly argues that that request was incorrectly approved. The Department states that only an HP analyst reviewed that request, not a clinical nurse. In this case a clinical nurse reviewed this request. In addition, a medical professional completed the Personal Care Screening Tool and submitted the request for 15.75 hours of PCW services based on that person's assessment of Petitioner's needs.

At hearing, Petitioner testified that he needed more than 15.75 hours per week in PCW time. Petitioner's testimony was uncorroborated by either a personal care screening tool or a medical professional. Petitioner appeared to be a cooperative person. He did not submit any testimony or other evidence showing that activities of daily living would take an unusually long period of time. Petitioner's testimony is not enough to meet his burden in demonstrating that both his provider and the Department are incorrect.

I further note that Petitioner testified that he was living alone. The record was left open for him to provide proof that he was living alone. If Petitioner were living alone, he may qualify for additional PCW time for services incidental to activities of daily living. Petitioner has failed to provide proof. The personal care screening tool is prepared by a medical professional who observes Petitioner in his home. That tool indicated that Petitioner was not living alone. Based upon those observations and the fact that Petitioner has failed to provide proof of his testimony with respect to his living arrangements, I find that the Department and provider correctly assessed PCW for services incidental to daily living.

### **CONCLUSIONS OF LAW**

The Department correctly approved the Personal Care Worker (PCW) hours requested by Petitioner's provider in a medical prior authorization request.

**THEREFORE, it is**

**ORDERED**

That the Petition is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

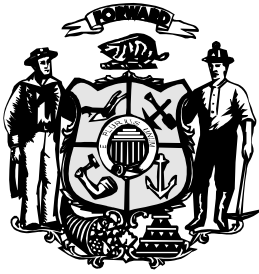
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 16th day of December, 2014

---

\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 16, 2014.

Division of Health Care Access and Accountability